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1867, c. 489, § 9, it was provided that the railroad company authorized by it to construct its roads in certain streets, shall pay 5 per cent of its net income "into the treasury of New York in such manner as the Legislature shall hereafter direct, as a compensation." Upon this point it was held that the obligation of the company to pay the 5 per cent did not become fixed until the Legislature directed the mode of payment (reversing 25 N. Y. Supp. 860). This action was further brought for an accounting of the profits of Manhattan Railway Co.'s connecting routes; under the Rapid Transit Act (Laws 1895, c. 606, § 36) roads already in operation were permitted to construct connecting routes having all the rights as if "the same had been a part of the original route of such railway." It was held that where a company, whose road was built under the authority of the act of 1867, "constructed connections under the rapid transit act, that it was not obliged to pay the city 5 per cent of the earnings of the connecting routes."

Excessive Assessments—Recovery of Excess Paid—Limitations.—*Groesbeck v. City of Cincinnati*, 37 N. E. Rep. 707 (Ohio). When a statute provides that action on money paid under an illegal assessment must be brought within one year from the date of payment, it bars recovery after that date, although the illegality was not discovered until the limit had run, and a penalty would have been incurred by non-payment.

Insolvent Estates—Outlawed Claims.—*Parsons v. Parsons*, 29 Atl. Rep. 999 (N. H.). A statute providing that outlawed claims against estates may be presented in courts of equity was copied from the laws of another State in which the procedure was similar. The Court held that it did not include insolvent estates, being governed by the construction placed on the original statute; the fact that it had been copied sufficiently showing an intention to confine it to claims of the same nature.

Pleading.—*Postal Telegraph Cable Co. v. Mayor, etc., of Baltimore*, 29 Atl. Rep. 819. Act of Congress (July, 1866, title 65, U. S. Rev. St.) which permits use of post roads for operation of telegraph lines is not supposed to confer upon a telegraph company any power to use streets of city without compensation.

Sheriff—Board of Prisoner—Authority to Contract for Merchandise.—*State ex rel. Coughlin v. Board of Commissioners of Washoe County*, 37 Pac. Rep. 486 (Nev.). This was an application for a writ of *certiorari* by the State of Nevada, *ex rel.* W. H. Coughlin

(Sheriff), against the Board of County Commissioners to allow a bill for supplies furnished to prisoners by order of the Sheriff. It was held that where two affirmative statutes have been enacted—one special and the other general—and there is ample scope for the latter to operate without repealing the former, it may be presumed that the Legislature did not intend to repeal the special act, although in the latter of the two acts there is a conflict. But where the latter act is expressed in negative terms it operates to repeal the former, and therefore the writ was denied.

RECEIVERS.

Railroad Receiver—Appointment—Previous Appointment in Adjoining State.—*Port Royal & Augusta Railroad Co. et al. v. King et al.*, 19 S. E. Rep. 809 (Ga.). When a receiver is legally appointed for a railroad, which, with the exception of an insignificant part, is located in one State, it is held to be public policy that he be invested with authority to manage the small fraction of the road located in the adjoining State. And it was held no abuse of discretion in the trial judge appointing such receiver for the whole road, and that it was not proper to appoint another receiver for the small part of the road located in the other State, as it was for the interest of all parties that the two parts of the road should be run in harmony.

Receivers—Demand and Voluntary Delivery—Discretionary Powers—Liability for Excess of Authority.—*Tapscott v. Lyon*, Pac. Rep. 225 (Cal.). When an insolvent firm, in order to prevent the firm property from coming into the hands of an assignee for ratable distribution, fraudulently transferred the property to a colluding third party, who voluntarily delivered it upon demand to a duly appointed receiver, and subsequently brought suit for conversion of such property by said receiver, it was held that the receiver, as such, had no right to seize the goods in the possession of the plaintiff, even though the said goods were manifestly acquired by fraud, and if he should so seize he would be personally liable. He must demand them and if refusal follow, must bring suit for their recovery. If the goods are delivered to him upon demand, he may not refuse them, but must hold them as the custodian of the court. Neither may he refuse to levy upon goods, though doubtful of the debtor's right to same, nor may he surrender goods once taken without leave of the court. If he shall go outside of his authority as receiver he shall be liable as a trespasser: but he may be sued only by permission of the court.